

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JONATHAN REED and SANDRA SNOW,

Plaintiffs,

Case No. 1:16-cv-00154-GJQ-PJG  
Hon. Gordon J. Quist

vs.

REAL FLAME COMPANY, INC, a Wisconsin  
corporation, and MODA FLAME, INC., a  
South Carolina corporation,

Defendants.

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**PLAINTIFFS' MOTION FOR LEAVE  
TO FILE A FIRST AMENDED COMPLAINT**

NOW COME Plaintiffs, JONATHAN REED and SANDRA SNOW, and for their  
Motion for Leave to File a First Amended Complaint, state as follows:

1. Plaintiffs seek to amend their Complaint to add a party Defendant, Pharmco Products, Inc., also known as Pharmco-Aaper, a foreign corporation with its principal place of business located at 58 Vale Road, Brookfield, Connecticut 06804. See Exhibit 1, Plaintiffs' proposed First Amended Complaint.

2. FRCP 15(a)(2) permits a party to seek the court's permission to amend a complaint. Under the court rule, a trial court should "freely give leave when justice so requires". See *Foman v. Davis*, 371 U.S. 178; 83 Sct 227; 9led 2d 222 (1962); *Marks v. Shell Oil Company*, 830 F2d 68 (6<sup>th</sup> Cir 1987).

3. This personal injury matter arises from a fire that occurred while Plaintiff, Jonathan Reed, was filling a ventless fireplace fuel labeled Moda Flame. See Exhibit 2, a photograph of the Moda Flame product.

4. Plaintiffs filed suit against Moda Flame, as well as Real Flame, Inc., the manufacturer of the ventless fireplace.

5. The only name on the Moda Flame product (Exhibit 2) is Moda Flame.

6. In recent responses to discovery, Defendant has indicated it only distributes the product and provides labeling and sales. See Exhibit 3, Answers to Interrogatories.

7. Defendant has identified a company called Pharmco Inc. as the designer and manufacturer of the product fuel (Exhibit 3).

8. Although the only name on the product is Moda Flame, in order to properly prosecute this case, Plaintiffs need to add as a party Defendant, Pharmco Products, Inc., also known as Pharmco-Aaper, to this case.

9. Discovery is in its infancy with only one deposition taken. There is a reasonable period of time left to add the new Defendant and proceed with this case.

10. Plaintiffs have sought concurrence in this matter, however, no concurrence was forthcoming.

11. Plaintiffs have not previously sought leave to amend the complaint.

12. A proposed Order permitting the Plaintiffs to amend their complaint to add Pharmco Products, Inc., also known as Pharmco-Aaper as a Defendant is attached as Exhibit 4.

WHEREFORE, Plaintiffs request this Honorable Court grant their motion for leave to file a first amended complaint to add a party Defendant, Pharmco Products, Inc., also known as Pharmco-Aaper.

Respectfully submitted,

/s/ Bruce N. Moss

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*Attorneys for Plaintiffs*

Dated: November 28, 2016

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing instrument was served on the attorneys of record of all parties to the above cause via the Court's ECF system on the 28<sup>th</sup> day November, 2016

/s/ Bruce N. Moss

Bruce N. Moss